

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. Contract ID Code Firm-Fixed-Price		Page 1 Of 10	
2. Amendment/Modification No. 10		3. Effective Date 2007JUN26		4. Requisition/Purchase Req No. SEE SCHEDULE		5. Project No. (If applicable)	
6. Issued By U.S. ARMY TACOM LCMC AMSTA-AQ-AHLA CATHERINE MILLER (586)574-8391 WARREN, MICHIGAN 48397-5000 HTTP://CONTRACTING.TACOM.ARMY.MIL WEAPON SYSTEM: WPN SYS: MM EMAIL: CATHERINE.E.MILLER@US.ARMY.MIL		Code W56HZV		7. Administered By (If other than Item 6) DCMA CENTRAL PENNSYLVANIA - YORK PO BOX 15512 YORK PA 17405-1512		Code S4201A	
				SCD C		PAS NONE	
				ADP PT		HQ0337	
8. Name And Address Of Contractor (No., Street, City, County, State and Zip Code) BAE SYSTEMS LAND & ARMAMENTS INC. 1100 BAIRS RD YORK, PA 17405-1512				<input type="checkbox"/>		9A. Amendment Of Solicitation No.	
				<input type="checkbox"/>		9B. Dated (See Item 11)	
				<input checked="" type="checkbox"/>		10A. Modification Of Contract/Order No.	
						W56HZV-05-G-0005/0002	
				<input type="checkbox"/>		10B. Dated (See Item 13)	
						2005JUN23	
Code 06085		Facility Code					

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers

☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:
(a) By completing items 8 and 15, and returning _____ copies of the amendments: (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. **FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.** If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting And Appropriation Data (If required)
NO CHANGE TO OBLIGATION DATA

13. THIS ITEM ONLY APPLIES TO MODIFICATIONS OF CONTRACTS/ORDERS

KIND MOD CODE: G

It Modifies The Contract/Order No. As Described In Item 14.

<input type="checkbox"/>	A. This Change Order is Issued Pursuant To: The Contract/Order No. In Item 10A.	The Changes Set Forth In Item 14 Are Made In
<input type="checkbox"/>	B. The Above Numbered Contract/Order Is Modified To Reflect The Administrative Changes (such as changes in paying office, appropriation data, etc.) Set Forth In Item 14, Pursuant To The Authority of FAR 43.103(b).	
<input checked="" type="checkbox"/>	C. This Supplemental Agreement Is Entered Into Pursuant To Authority Of: MUTUAL AGREEMENT OF THE PARTIES	
<input type="checkbox"/>	D. Other (Specify type of modification and authority)	

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return _____ copies to the Issuing Office.

14. Description Of Amendment/Modification (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

SEE SECOND PAGE FOR DESCRIPTION

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. Name And Title Of Signer (Type or print)		16A. Name And Title Of Contracting Officer (Type or print) DENISE MIKA DENISE.MIKA@US.ARMY.MIL (586)574-7076	
15B. Contractor/Offeror _____ (Signature of person authorized to sign)	15C. Date Signed	16B. United States Of America By _____ /SIGNED/ (Signature of Contracting Officer)	16C. Date Signed 2007JUN26

NSN 7540-01-152-8070

PREVIOUS EDITIONS UNUSABLE

30-105-02

STANDARD FORM 30 (REV. 10-83)

Prescribed by GSA FAR (48 CFR) 53.243

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SECTION A - SUPPLEMENTAL INFORMATION
W56HZV-05-G-0005
Order 0002
Modification 10

1. The purpose of this modification 10 to Order 0002 under Basic Ordering Agreement W56HZV-05-G-0005 is as follows:

- a. To incorporate the negotiated settlement of \$658,540.00 credit to the Government for the reduction in material and labor costs resulting from the definitization of Red River Army Depot (RRAD) costs in accordance with Section H, paragraph H.21, Downward Only Price Adjustment. A credit of \$658,540.00 (FY05 APA) is established on this order and shall remain on CLIN 0001AA as available to the Government for use on future offsets.
- b. To incorporate the negotiated settlement of \$133,215.00 credit to the Government for the reduction in packaging for the ODS Conversion kits under CLINs 0002AA and 0003AA of this order. This packaging reduction was authorized by PCO letter dated 20 December 2006. A credit of \$133,215.00 (FY05 APA) is established on this order and and is available to the Government for use on future offsets.
- c. As a result, the summary of the credit available to the Government is as follows:

Credit for RRAD Definitization:	\$ 658,540.00
Credit for Packaging Reduction on ODS Conversion Kits:	\$ 133,215.00
Total Credit available to the Government for Future Procurements:	\$ 791,755.00

- d. To correct the following part number accorded duty free entry under Section H, paragraph H.6.1:
- From: 13385234-3S1, Hinge Support
To: 12385234-3S1, Hinge Support

2. The Contractor hereby remises, releases and discharges the Government from all civil liabilities, obligations, claims, appeals, and demands which are based on the incorporation of the above referenced changes into the contract, whether administrative or judicial, legal or equitable, or direct or indirect.
3. There is no change in contract price as a result of this modification and all terms and conditions, except those addressed herein, remain unchanged and in full force and effect.

*** END OF NARRATIVE A0012 ***

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SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.2 PERFORMANCE-BASED PAYMENTS 52.232-32 May 1997

H.2.1 Performance-Based Payments

a. Amount of payments and limitations on payments. Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

b. Contractor request for performance-based payments. The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs(1) and (m) of this clause.

c. Approval and payment of requests.

(1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract, and approved requests shall be paid in accordance with the prompt payment period and provisions specified for contract financing payments by that clause. However, if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquiries into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification, payment is not required, and the prompt payment period shall not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

d. Liquidation of performance-based payments.

(1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

e. Reduction or suspension of performance-based payments. The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract(which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's(i)Failure to make progress; or (ii) unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

f. Title.

(1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

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(2) Property. As used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices: (i) Parts, materials, inventories, and work in process; (ii) special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract; (iii) nondurable (i.e., nonmartial) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (f)(2)(ii) of this clause; and (iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination or special tooling clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not (i) Delivered to, and accepted by, the Government under this contract; or (ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

g. Risk of loss. Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is damaged, lost, stolen, or destroyed, the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

h. Records and controls. The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

i. Reports and Government access. The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractors records and to examine and verify the Contractor's performance of this contract for administration of this clause.

j. Special terms regarding default. If this contract is terminated under the Default clause:

(1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and

(2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

k. Reservation of rights.

(1) No payment or vesting of title under this clause shall (i) excuse the Contractor from performance of obligations under this contract; or (ii) constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause (i) shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

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1. Content of Contractor's request for performance-based payment. The Contractor's request for performance-based payment shall contain the following:

- (1) The name and address of the Contractor;
- (2) The date of the request for performance-based payment;
- (3) The contract number and/or other identifier of the contract or order under which the request is made;
- (4) Such information and documentation as is required by the contracts description of the basis for payment; and
- (5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

m. Content of Contractors certification. As required in paragraph (1)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that-

- (1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;
- (2) (Except as reported in writing on _____), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;
- (3) There are no encumbrances (except as reported in writing on _____) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;
- (4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated _____; and
- (5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

H.3 ESSENTIALITY/MATERIALITY OF DELIVERY SCHEDULE

H.3.1 For purposes of the Performance Based Payments clause (See provision H.2, above) it is agreed and understood that the vehicle fielding and data delivery schedules is a material requirement of this contract. The Government may reduce or suspend payments in the event the Contractor becomes delinquent in deliveries or where it is evident that delivery will not be timely because of the Contractors failure to make progress.

H.4 MATERIAL REQUIREMENTS

H.4.1 In accordance with FAR 52.211-5 of this contract entitled Material Requirement, the used, reconditioned or remanufactured materials listed in Attachment 8 (to be provided at a later date) to the contract entitled "Approved Used, Reconditioned or Remanufactured Material" have been approved for use under the contract.

H.5 DATA RESPONSIBILITY

H.5.1 Recognizing that a visual review by the Government, of data delivered or released under this contract may be insufficient to prove out their adequacy for intended use, the Contractor shall certify prior to contract completion, that to the best of his knowledge and belief all such data are complete and conform to the data requirements of this contract. Failure of related data, made under the terms of this contract, to meet the requirements thereof shall be cause for rejection as unacceptable. Prior to final acceptance of the drawings and related data by the Government, the Contractor shall submit evidence that drawings and related data rejected as unacceptable have been corrected. Notwithstanding such final acceptance, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, data deficiencies (i) at any time during the performance of this contract, and (ii) for a period of three (3) years thereafter, in accordance with Special Provision H.19 of the basic BOA entitled WARRANTY OF DATA.

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H.6.1 In accordance with paragraph (b) of the Duty-Free Entry clause of this contract, in addition to duty free entry for all qualifying country supplies (end products and components) all eligible end products subject to applicable trade agreements (if this contract contains the Buy American Act - Trade Agreements - Balance of Payments Program clause or the Buy American Act - North American Free Trade Agreement Implementation Act - Balance of Payments clause), the following foreign end products that are neither qualifying country end products nor eligible end products under a trade agreement, and the following foreign nonqualifying country components, are accorded duty-free entry:

Part Number	Description	Vendor
01) 12369774-F	Turrent Ring Forging	Canadian Forgings Inc.
02) 12369775-F	Turrent Ring Forging	Canadian Forgings Inc.
03) 12369776-F	Turrent Ring Forging	Canadian Forgings Inc.
04) 12369777-F	Turrent Ring Forging	Canadian Forgings Inc.
05) 12369778-F	Intake Grill Forging	Canadian Forgings Inc.
06) 12334321-F	Shield Field Forging	Canadian Forgings Inc.
07) 12295295-F	Bracket Forging	Canadian Forgings Inc.
08) 12369308	Shock Absorber	General Kinetics Engineering Corp.
09) 12359649	Plain Bearing	General Kinetics Engineering Corp.
10) M5506622	Steel Armor Plate	Stelco
11) M5323572	Steel Armor Plate	Stelco
12) M5504740	Steel Armor Plate	Stelco
13) 12367362-S	Mount Hinge Support	Vestshell Inc.
14) 12385234-3S1	Hinge Support	Vestshell Inc.
15) 12385234-4S1	Hinge Support	Vestshell Inc.
16) 9380346-14C	Lug Sight Arm Inv	Vestshell Inc.
17) 12307272-C	Hinge Com Casting	Vestshell Inc.
18) 12359272-C	Control Rod Plate	Vestshell Inc.
19) 254772-1	Bracket	Vestshell Inc.
20) 12307410-C	Bracket Casting	Vestshell Inc.
21) 12359290-C	Bracket Casting	Cabiran C/O Mistral
22) 12297231-C	Bracket Casting	Cabiran C/O Mistral
23) 12359291-C	Eye Bracket Casting	Cabiran C/O Mistral
24) 12294495-C	Casting Support	Cabiran C/O Mistral
25) 12298207-2	Retainer Tie Down	Cabiran C/O Mistral
26) 12294396-C	Casting Coupling	Cabiran C/O Mistral
27) 12294397-C	Output Casting Coupling	Cabiran C/O Mistral
28) 12466033-3	Color Flat Panel Display	Computing Devices of Canada (CDC)
29) 3227398-0001	BIOC Display Kit	Raythen Electronic Systems (Supplier Brimar Ltd, U.K.)
30) 12350934-F	Forging, Cover	Canada Forgings Inc.
31) 264X13031X5000	Bearing, Roller	SKF USA
32) 12297950	Bearing, Pair	SKF USA
33) 12308476	Journal Assembly	Dana Corporation
34) 05-2-3443	Spider and Bearing	Dana Corporation
35) 303824-701	Conn Interface CCA	General Dynamics, Canada
36) 304012-701	Display Head Ass'y	General Dynamics, Canada
37) 304038-701	Display Video	General Dynamics, Canada
38) 256881-703	Power Supply	General Dynamics, Canada

H.7 GOVERNMENT RIGHT TO FURNISH PROPERTY, MATERIAL, AND/OR EQUIPMENT and SHIPMENT

H.7.1 The Government shall furnish in a timely manner the items listed in Attachment 1 of this contract to support build of vehicles. The Government reserves the right to bulk deliver the items to the Contractor. Bulk delivery must occur more than 120 days in advance of the vehicle build schedule. The Contractor is responsible for notifying the Government of any changes in build schedules.

H.7.2 In addition to the Government furnished property, material and/or equipment described in Attachment 1 of this contract, the Government reserves the right to furnish to the Contractor other items of Government property, material and/or equipment or to increase the quantities specified in Attachment 1.

H.7.3 The contractor shall promptly take such action as the Contracting Officer may direct with respect to such additional property, material and/or equipment. In the event the Government exercises its right under this paragraph, the parties will agree to equitably adjust the contract price and/or delivery schedule or performance dates in accordance with the procedures provided for in the "Changes" clause of this contract. The contractor shall submit either a proposal for equitable adjustment or rationale for no equitable adjustment within thirty-(30) days following the Contracting Officer's notice of change. Failure to agree to an equitable adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause.

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H.7.4 All property furnished pursuant to this paragraph shall be subject to the provisions of the "Government Property" clause of this contract.

H.8 USE OF GOVERNMENT PROPERTY AND FACILITIES

H.8.1 The Contractor based this contract price on rent-free use of property and facilities that were initially made available under other contracts (see below). The Government property and facilities are in the possession of the Contractor and subcontractors accountable under the below listed Government contracts. Rent-free, non-interference use of Government property accountable under those contracts is approved.

CONTRACT	CONTRACTOR	PROGRAM
a) DAAE07-95-C-X030	United Defense	System Technical Support
b) DAAE07-96-C-X036	United Defense	BFV Remanufacture
c) DAAE07-00-C-M002	United Defense	BFV Remanufacture
d) DAAE07-01-C-M011	United Defense	BFV STS
e) DAAE07-01-G-M002	United Defense	BFV BOA
f) DAAE07-01-C-M016	United Defense	BFV Remanufacture

H.9 SECURITY REQUIREMENTS

H.9.1 Contract Security Classification Specification DD Form 254, Attachment 3, is applicable to performance under this contract.

H.10 DEPARTMENT OF DEFENSE ACTIVITY ADDRESS CODE

H.10.1 The Department of Defense Activity Address Code (DODAAC) for use under this contract is CK007F.

H.11 MAKE-OR-BUY PROGRAMS IN ACCORDANCE WITH SUBPART 15.4 OF THE FAR

H.11.1 The Contractor operates in accordance with a make or buy procedure ("United Defense Production Documentation Department Operating Procedure-PD-20, Revision B") that determines which items are to be purchased from outside suppliers for use in a product. The procedure is applicable to all Government production programs/contracts, including this contract. As such, no specific make-or-buy plan will be submitted for this contract. The contractor shall perform to its established procedure, hereafter referred to as the "program". The program (procedure) has been reviewed by the Government. It is considered an acceptable process for determining make or buy items.

H.11.2 If the Contractor desires to change its make or buy program or items under the contract, it shall review the requirements of FAR 52.215-9 of this contract entitled, "Changes or Additions to Make or Buy Program" to determine if notification to the Government and/or contract adjustment is required.

H.11.3 The contractor shall submit and negotiate changes from BUY to MAKE for those items over \$500,000 in each program year. For MAKE items the Contractor shall submit and negotiate changes only if the change would result in a subcontract over \$500,000.00 in any program year. Any short-term or temporary changes to alleviate manufacturing problems and/or delivery problems or changes specifically authorized by the Government will not be submitted or negotiated as changes to the Make or Buy Program.

H.12 PRIORITY RATING

H.12.1 A priority rating of D0-A4 is assigned to this contract and it is certified for National Defense use under DMS Regulation 1. The contractor shall take all necessary actions to extend this rating to its suppliers or subcontractors where required.

H.13 NOTIFICATION OF INCONSISTENCIES

H.13.1 Should the contractor discover or suspect any inconsistencies among contract provisions, requirements, specifications, and/or documents, he shall immediately notify the Procuring Contracting Officer in writing.

H.14 SMALL AND SMALL DISADVANTAGE BUSINESS SUBCONTRACTING PLAN

H.14.1 The Small and Small Disdantaged Business Subcontracting Plan will be incorporated by reference. The contractor shall retain copies of their vendors and subcontractors small and small disadvantage business subcontracting plan(s). These copies of the plans,

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along with the contractor's plan(s), shall be made available for review by appropriate government officials.

H.15 ALTERATIONS IN CONTRACT PROVISIONS

H.15.1 Contract Section I, General Provision I.65, FAR 52.243-1, "Changes-Fixed Price (August 1987)", paragraph c, is revised by replacing "30 days" with "90 days".

H.15.2 Contract Section I, General Provision I.67, FAR 52.243-7, "Notification of Changes (April 1984)", the fill-in portion of paragraph b is 90 days and the fill in portion of paragraph d is 30 days.

H.16 TITLE TO SPECIAL TOOLING -- DEVIATION

H.16.1 In accordance with the September 16, 1999 Class Deviation -- Special Tooling, DAR tracking number 99-00012 issued by the Director, Defense Procurement, the portion of the Government Property clause for fixed price contracts FAR 52.245-2 that states that special tooling is subject to title provisions in the special tooling clause is waived. The waiver is necessary because the 1984 edition of the Special Tooling clause (see Paragraph H.58), as contained in this contract, does not contain title provisions.

H.17 FAR PART 45 -- DEVIATION

H.17.1 In accordance with the July 13, 1999 Class Deviation from Federal Acquisition Regulation Part 45, DAR tracking number 99-00008, issued by the Director, Defense Procurement, the property record keeping and periodic physical inventory requirements for low-value property (special tooling, special test equipment, and plant equipment with an acquisition value of less than \$5,000 or less)is reduced per the deviation. Further in accordance with the deviation the contractor may defer reporting the loss, damage or destruction of low-value property until contract termination or completion.

H.18 Reserved.

H.19 SPECIAL TOOLING - FAR 52.245-17 -- (APRIL 1984) -- DEVIATION

a) Definition: "Special tooling" means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, that are of such specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or performing particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items. Special tooling, for the purpose of this clause, does not include any item acquired by the Contractor before the effective date of this contract, or replacement of such items, whether or not altered or adapted for use in performing this contract, or items specifically excluded by the Schedule of this contract.

b) Use of special tooling: The contractor agrees to use the special tooling only in performing this contract or as otherwise approved by the Contracting Officer.

c) Initial list of special tooling: If the Contracting Officer so requests, the contractor shall furnish the Government an initial list of all special tooling acquired or manufactured by the Contractor for performing this contract (but see paragraph (d) for tooling that has become obsolete). The list shall specify the nomenclature, tool number, related product part number (or service performed), and unit or group cost of the special tooling. The list shall be furnished within 60 days after delivery of the first production end item under this contract unless a later date is prescribed.

d) Changes in design: Changes in the design or specifications of the end items being produced under this contract may affect the interchangeability of end item parts. To such an event, unless otherwise agreed to by the Contracting Officer, the contractor shall notify the Contracting Officer of any part not interchangeable with a new or superseding part. Pending disposition instructions, such usable tooling shall be retained and maintained by the contractor.

e) Contractor's offer to retain special tooling: The Contractor may indicate a desire to retain certain items of special tooling at the time it furnishes a list or notification pursuant to paragraph (c), (d), or (h) of this clause. The contractor shall furnish a written offer designating those items that it wishes to retain by specifically listing the items or by listing the particular products, parts, or services for which the times were used or designed. Their offer shall be made on one of the following bases:

1) An amount shall be offered for retention of the items free of any Government interest. This amount shall ordinarily not be less than the current fair value of the items, considering among other things, the value of the items to the contractor for use in future work.

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Name of Offeror or Contractor: BAE SYSTEMS LAND & ARMAMENTS INC.

2) Retention may be requested for a limited period of time and under terms as may be agreed to by the Government and the contractor. This temporary retention is subject to final disposition pursuant to paragraph (i) of this clause.

f) Property control records: The contractor shall maintain adequate property control records of all special tooling in accordance with its normal industrial practice. The records shall be made available for Government inspection at all reasonable times. To the extent practicable, the contractor shall identify all special tooling subject to this clause with an appropriate stamp, tag, or other mark.

g) Maintenance: The contractor shall take all reasonable steps necessary to maintain the identity and existing condition of usable items of special tooling from the date such items are no longer needed by the contractor until final disposition under paragraph (i) of this clause. These maintenance requirements do not apply to those items designated by the Contracting Officer for disposal as scrap or identified as of no further interest to the Government under paragraph (i)(4) of this clause. The contractor is not required to keep unneeded items of special tooling in place.

h) Final list of special tooling: When all or a substantial part of the work under this contract is completed or terminated, the contractor shall furnish the Contracting Officer a final list of special tooling with the same information as required for the initial list under paragraph (c) of this clause. The final list shall include all items not previously reported under paragraph (c). The contracting officer may provide a written waiver of this requirement or grant an extension. The requirement may be extended until the completion of this contract authorizing the use of the special tooling under paragraph (b) of this clause. Special tooling that has become obsolete as a result of changes in design or specification need not be reported except as provided for in paragraph (d).

i) Disposition instructions: The contracting officer shall provide the contractor with disposition instructions for special tooling identified in a list or notice submitted under paragraphs (c), (d), or (h) of this clause. The instructions shall be provided within 90 days of receipt of the list or notice, unless the period is extended by mutual agreement. The contracting officer may direct disposition by any of the methods listed in subparagraph (1) through (4) of this paragraph, or a combination of such methods. Any failure of the Contracting Officer to provide specific instruction within the 90 day period shall be construed as direction under subparagraph (i)(3).

1) The Contracting Officer shall give the contractor a list specifying the products, parts, or services for which the Government may require special tooling and request the contractor to transfer title (to the extent not previously transferred under any other clause of this contract) and deliver to the Government all usable items of special tooling that were designed for or used in the production or performance of such products, parts or services and that were on hand when such production or performance ceased.

2) The Contracting Officer may accept or reject any offer made by the Contractor under paragraph (e) of this clause to retain items of special tooling or may request further negotiation of the offer. The contractor agrees to enter into negotiations in good faith. The net proceeds from the contracting officer's acceptance of the contractor's retention offer shall either be deducted from amounts due the contractor under this contract or shall be otherwise paid to the government as directed by the contracting officer.

3) The contracting officer may direct the contractor to sell, or dispose of as scrap, for the account of the Government, any special tooling reported by the contractor under this clause. The net proceeds of all sales shall either be deducted from amounts due the contractor under this contract or shall be paid to the Government as directed by the Contracting Officer. To the extent that the Contractor incurs any costs occasioned by compliance with such directions, for which it is not otherwise compensated, the contract price shall be equitably adjusted in accordance with the Changes clause of this contract.

4) The Contracting Officer may furnish the contractor with a statement disclaiming further Government interest or rights in any of the special tooling listed.

j) Storage or shipment: The contractor shall promptly transfer to the Government title to the special tooling specified by the Contracting Officer and arrange for either the shipment or the storage of such tooling in accordance with the final disposition instruction in subparagraph (i) (1) of this clause. Tooling to be shipped shall be properly packaged, packed, and marked in accordance with the directions of the Contracting Officer. Tooling to be stored shall be stored pursuant to a storage agreement between the Government and the Contractor, and as direct by the Contracting Officer. Tooling shipped or stored shall be accompanied by operation sheets or other appropriate documentation necessary to show the manufacturing operations or processes for which the items were used or designed. To the extent that the contractor incurs costs for authorized storage or shipment under this paragraph and not otherwise compensated for, the contract price shall be equitably adjusted in accordance with the Changes clause of this contract.

k) Subcontract provisions: In order to perform this contract, the contractor may place subcontracts (including purchase orders) involving the use of special tooling. If the full cost of tooling is charged to those subcontracts, the contractor agrees to include in the subcontracts appropriate provisions to obtain Government rights comparable to the rights of the Government under this clause (unless the contractor and the Contracting Officer agree that such rights are not of substantial interest to the Government). The contractor agrees to exercise such rights for the benefit of the Government as directed by the Contracting Officer.

H.20 UID. The contractor is required to apply a UID to the vehicle system delivered under CLINs 0001AA, 0002AA and 0003AA in accordance with the DFARS clause at 252.211-7003. For this contract the application of the UID to vehicle down parts, spares, or kits is not required.

H.21 DOWNWARD ONLY PRICE ADJUSTMENT

H.21.1 The prices for the Red River Army Depot material and labor listed below are based on Not To Exceed (NTE) subcontractor pricing with Red River Army Depot.

H.21.2 The NTE subcontractor prices for 50 ODS vehicles are set forth below:

Item	NTE Price
Miscellaneous Parts	\$1,257,982
Guns	335,326
Teardown	738,013
Inspection	15,245
Total:	\$2,346,566

H.21.2.1 The Contract prices for the items referenced in H.22.2 shall be adjusted to reflect any reduction negotiated to the NTE subcontract price. The difference between the reduction in the NTE subcontract price and the respective final negotiated subcontract prices shall be subtracted from the appropriate prices in the prime contract.

H.21.2.2 The Contractor shall submit a proposal for a downward adjustment of the aforementioned interim subcontract prices within 60 days after award of Delivery Order 0002. A bilateral modification shall be executed incorporating the impact of any price reduction into the appropriate areas of the Contract. The Government shall reimburse the Contractor the costs and fee for fact finding, negotiating and definitizing the subcontractor proposals and the total settlement amount will be less than the ceiling amount.

H.21.3 If agreements on definitive subcontract prices are not reached between the Contractor and the subcontractor, or if the Contractor and the Government do not reach an agreement on final prices to replace the above NTE subcontract prices within 90 days of award of Delivery Order 0002, or such other period as may be agreed to by the Contracting Officer, the Contracting Officer has the right to determine a reasonable final price for the above described subcontract for the purpose of determining the final adjustment due under this special provision is subject to appeal by the contractor, pursuant to the clause of the Basic Ordering Agreement entitled "Disputes."